
STATUTORY INSTRUMENTS

1992 No. 1847

SUPREME COURT OF ENGLAND AND WALES

The Crown Court (Amendment) Rules 1992

Made - - - - - *27th July 1992*
Laid before Parliament *3rd August 1992*
Coming into force - - - *1st October 1992*

We, the Crown Court Rule Committee, in exercise of the powers conferred on us by sections 84(1) and 86 of the Supreme Court Act 1981(1) and section 32(4) and (5) and section 32A(11) of the Criminal Justice Act 1988(2), hereby make the following Rules:

1. These Rules may be cited as the Crown Court (Amendment) Rules 1992 and shall come into force on 1st October 1992.
2. In these Rules, “the principal rules” means the Crown Court Rules 1982(3).
3. For rule 23A(4) of the principal rules, there shall be substituted the following rule—

“Evidence through television link where witness is a child or is to be cross-examined after admission of a video recording

23A.—(1) Any party may apply for leave under section 32(1)(b) of the Criminal Justice Act 1988 for evidence to be given through a live television link where—

- (a) the offence charged is one to which section 32(2) applies; and
- (b) the evidence is to be given by a witness who is either—
 - (i) in the case of an offence falling within section 32(2)(a) or (b), under the age of 14; or
 - (ii) in the case of an offence falling within section 32(2)(c), under the age of 17; or
 - (iii) a person who is to be cross-examined following the admission under section 32A of that Act of a video recording of testimony from him;

(1) 1981 c. 54.
(2) 1988 c. 33; section 32 was amended by the Criminal Justice Act 1991 (c. 53), section 55. Section 32A was inserted by section 54 of that Act.
(3) S.I.1982/1109; the relevant amending instrument is S.I. 1988/2160.
(4) Rule 23A was inserted by S.I. 1988/2160.

and references in this rule to an offence include references to attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of, that offence.

(2) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Schedule 5 or a form to the like effect.

(3) An application under paragraph (1) shall be made within 28 days after the date of the committal of the defendant, or of the consent to the preferment of a bill of indictment in relation to the case, or of the service of notice of transfer under section 53 of the Criminal Justice Act 1991, or of the service of Notice of Appeal from a decision of a youth court or magistrates' court, as the case may be.

(4) The notice under paragraph (2) shall be sent to the appropriate officer of the Crown Court and at the same time a copy thereof shall be sent by the applicant to every other party to the proceedings.

(5) A party who receives a copy of a notice under paragraph (2) and who wishes to oppose the application shall within 14 days notify the applicant and the appropriate officer of the Crown Court, in writing, of his opposition, giving the reasons therefor.

(6) An application under paragraph (1) shall be determined by a judge of the Crown Court without a hearing, unless the judge otherwise directs, and the appropriate officer of the Crown Court shall notify the parties of the time and place of any such hearing.

(7) The appropriate officer of the Crown Court shall notify all the parties and any person who is to accompany the witness (if known) of the decision of the Crown Court in relation to an application under paragraph (1). Where leave is granted, the notification shall state—

- (a) where the witness is to give evidence on behalf of the prosecutor, the name of the witness, and, if known, the name, occupation and relationship (if any) to the witness of any person who is to accompany the witness, and
- (b) the location of the Crown Court at which the trial should take place.

(8) The period specified in paragraph (3) may be extended, either before or after it expires, on an application made in writing, specifying the grounds of the application and sent to the appropriate officer of the Crown Court, and a copy of the application shall be sent by the applicant to every other party to the proceedings. The appropriate officer of the Crown Court shall notify all the parties of the decision of the Crown Court.

(9) An application for extension of time under paragraph (8) shall be determined by a judge of the Crown Court without a hearing unless the judge otherwise directs.

(10) A witness giving evidence through a television link pursuant to leave granted under paragraph (7) shall be accompanied by a person acceptable to a judge of the Crown Court and, unless the judge otherwise directs, by no other person.”

4. After rule 23B(5) of the principal rules, there shall be inserted the following rule—

“Video Recordings of testimony from child witnesses

23C.—(1) Any party may apply for leave under section 32A of the Criminal Justice Act 1988 to tender in evidence a video recording of testimony from a witness where—

- (a) the offence charged is one to which section 32(2) of that Act applies;
- (b) in the case of an offence falling within section 32(2)(a) or (b), the proposed witness is under the age of 14 or, if he was under 14 when the video recording was made, is under the age of 15;

- (c) in the case of an offence falling within section 32(2)(c), the proposed witness is under the age of 17 or, if he was under 17 when the video recording was made, is under the age of 18; and
- (d) the video recording is of an interview conducted between an adult and a person coming within sub-paragraph (b) or (c) above (not being the accused or one of the accused) which relates to any matter in issue in the proceedings;

and references in this rule to an offence include references to attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of, that offence.

(2) An application under paragraph (1) shall be made by giving notice in writing, which shall be in the form prescribed in Schedule 7 or a form to the like effect. The application shall be accompanied by the video recording which it is proposed to tender in evidence and shall include the following, namely—

- (a) the name of the defendant and the offence or offences charged;
- (b) the name and date of birth of the witness in respect of whom the application is made;
- (c) the date on which the video recording was made;
- (d) a statement that in the opinion of the applicant the witness is willing and able to attend the trial for cross-examination;
- (e) a statement of the circumstances in which the video recording was made which complies with paragraph (4) below;
- (f) the date on which the video recording was disclosed to the other party or parties.

(3) Where it is proposed to tender part only of a video recording of an interview with the witness, an application under paragraph (1) must specify that part and be accompanied by a video recording of the entire interview, including those parts which it is not proposed to tender in evidence, and by a statement of the circumstances in which the video recording of the entire interview was made which complies with paragraph (4) below.

(4) The statement of the circumstances in which the video recording was made referred to in paragraphs (2)(e) and (3) above shall include the following information, except in so far as it is contained in the recording itself, namely—

- (a) the times at which the recording commenced and finished, including details of any interruptions;
- (b) the location at which the recording was made and the usual function of the premises;
- (c) the name, age and occupation of any person present at any point during the recording; the time for which he was present; his relationship (if any) to the witness and to the defendant;
- (d) a description of the equipment used including the number of cameras used and whether they were fixed or mobile; the number and location of microphones; the video format used and whether there were single or multiple recording facilities;
- (e) the location of the mastertape if the video recording is a copy and details of when and by whom the copy was made.

(5) An application under paragraph (1) shall be made within 28 days after the date of the committal for trial of the defendant, or of the giving of a notice of transfer under section 53 of the Criminal Justice Act 1991, or of consent to the preferment of a bill of indictment in relation to the case, or of the service of Notice of Appeal from a decision of a youth court or magistrates' court, as the case may be.

(6) The period of 28 days in paragraph (5) may be extended by a judge of the Crown Court, either before or after it expires, on an application made in writing, specifying the grounds of the application. The appropriate officer of the Crown Court shall notify all the parties of the decision of the Crown Court.

(7) The notice under paragraph (2) or (6) shall be sent to the appropriate officer of the Crown Court and at the same time, copies thereof shall be sent by the applicant to every other party to the proceedings. Copies of any video recording required by paragraph (2) or (3) to accompany the notice shall at the same time be sent to the court and to any other party who has not already been served with a copy or in the case of a defendant acting in person, shall be made available for viewing by him.

(8) A party who receives a copy of a notice under paragraph (2) shall, within 14 days of service of the notice, notify the applicant and the appropriate officer of the Crown Court, in writing—

- (a) whether he objects to the admission of any part of the video recording or recordings disclosed, giving his reasons why it would not be in the interests of justice for it to be admitted; and
- (b) whether he would agree to the admission of part of the video recording or recordings disclosed and if so, which part or parts; and
- (c) whether he wishes to be represented at any hearing of the application.

(9) After the expiry of the period referred to in paragraph (8), a judge of the Crown Court shall determine whether an application under paragraph (1) is to be dealt with—

- (a) without a hearing, or
- (b) where any party notifies the appropriate officer of the Crown Court pursuant to paragraph (8) that he objects to the admission of any part of the video recording and that he wishes to be represented at any hearing, or in any other case where the judge so directs, at a hearing at which the applicant and such other party or parties as the judge may direct may be represented,

and the appropriate officer of the Crown Court shall notify the applicant and, where necessary, the other party or parties, of the time and place of any such hearing.

(10) The appropriate officer of the Crown Court shall within 3 days of the decision of the Crown Court in relation to an application under paragraph (1) being made, notify all the parties of it in the Form prescribed in Schedule 8 or a form to the like effect, and, where leave is granted, the notification shall state whether the whole or specified parts only of the video recording or recordings disclosed are to be admitted in evidence.”.

5. For Schedule 5 to the principal rules, there shall be substituted the form set out in Schedule 1 to these Rules.

6. There shall be inserted after Schedule 6 to the principal rules, the Schedules set out in Schedule 2 to these Rules.

*Mackay of Clashfern , C.
Taylor , C.J.,
Russell , L.J.,
J. A. Henham,
Michael McKenzie,
P. F. Guggenheim,
David Jeffreys,
M. D. L. Kalisher,
L. Naylor,
S. T. Hammond,
Geoffrey Rivlin.*

Dated 27th July 1992

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Rule 5

SCHEDULE 5 AS SUBSTITUTED

“SCHEDULE 5

Notice of Application for leave to use television link under Section 32(1)(b) of the Criminal Justice Act 1988

- An application should be made within 28 days after the day on which the case was committed for trial or of consent to the preferment of a bill of indictment, or of notice of transfer or of notice of appeal. This form may also be used where an extension of time has been granted for the making of this application.
- A copy of this form must be given at the same time to the other party or parties to the case.

Case Details

The Crown Court at

Crown Court Case
Number:

*delete as
appropriate

Date of: committal for trial*:
 consent to preferment of bill of
 indictment*:
 notice of transfer served*:
 notice of appeal served*:

Defendant(s): Surname:

Forenames:

State the
name(s) of the
defendant(s) to
whom this
application
relates

Application:

Name of Applicant:

Name of Applicant’s Solicitor:

Address of Solicitor:

Reference:

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Charges

Give brief details of those charges to which this application applies

Witness ● Please read the Notes beside this section before completing it.

Date of Birth:

If an application has been made to tender in evidence a video recording of testimony from the witness, state the date and (if known) result of that application:

If the Applicant is the prosecutor enter the name of the witness (otherwise leave blank):

Grounds for applying for evidence to be given by television link:

Note:
An application by the defence for evidence to be given through live television link need not disclose who that witness is except to the extent that the disclosure is required by Section 11 of the Criminal Justice Act 1967 (alibi) nor need it disclose the name of the person proposed to accompany the witness if this could lead to the identification of the witness.
The witness will normally be accompanied by a court usher while giving evidence. If it is proposed that another person be present, give details.

Name of the person who is proposed to accompany the witness:

Occupation of this person:

Relation to the witness of this person (if any):

Grounds for believing this person should accompany the witness:

Signature of applicant

or

applicant's solicitor

Date

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Application for leave to use television link where witness is a child or is to be cross examined after admission of a video recording. Form

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SCHEDULE 2

Rule 6

ADDED SCHEDULES

“SCHEDULE 7

Notice of Application for leave to tender in evidence a video recording under Section 32A of the Criminal Justice Act 1988.

- An application should be made within **28 days** after the day on which the case was committed for trial, **or** of consent to the preferment of a bill of indictment **or** of notice of transfer, **or** of notice of appeal. If made after the expiry of this period, this notice can be used but should be accompanied by a statement giving good reasons why the application was not made within it.
- A copy of this form and any video recording(s) to which it relates must be sent at the same time to the other party or parties to the case. Where a defendant is unrepresented, a copy of the video recording should not be sent, but must be made available for viewing by him.

Case Details

The Crown Court at:

Crown Court Case Number:

Date of: committal for trial*
 consent to preferment of bill of indictment*
 notice of transfer served*
 notice of appeal served*

Delete inappropriate

Defendant(s): Surname:

Forenames:

Application

Name of Applicant:

Name of Applicant’s Solicitor:

Address of Solicitor:

Reference:

Charges

Give details of those charges to which this application applies

Witness

Name:

Date of Birth:

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Video recording(s)

Statement as to circumstances in which video recording made

These details need be completed only to the extent that the information is not contained in the video recording itself

Date(s) of video recording(s):

Time(s) of video recording(s):

State times at which recording began and finished including any interruptions

Location and normal function of premises where video recording made:

Give address and description of premises where recording made

Details of those present while recording made

Include name, age and occupation of anyone present; time for which present, relationship (if any) to witness and defendant

Equipment used

Include number, and type of cameras (fixed or mobile), number and location of microphones, video format and whether single or multiple recording facilities used

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Location of mastertape

State name and address of keeper of mastertape

Details of copy

State when and by whom each copy accompanying this notice was made

[**Note** A copy of any video recordings of other parts of the interview with the witness which it is *not* proposed to tender in evidence must also be provided to the court and the other parties. The details of each such recording must be given as above. Use separate sheets where necessary.]

Grounds for application

I confirm that

- (a) I believe the witness is willing and able to attend the trial for cross-examination;
- (b) The details given in the statement of the circumstances in which the video recording was made above are correct;
- (c) Copies of the video recording(s) to which this application relates have been disclosed to the other parties and their agreement to them being tendered has been sought;
- (d) A copy of this notice and the video recording(s) to which it relates have been served on each party to the proceedings.

Signature of applicant
or
applicant's Solicitor:

Date:

.....

SCHEDULE 8

Notice of decision on application to tender in evidence a video recording under section 32A of the Criminal Justice Act 1988

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Case Details

The Crown Court at: Crown Court Case Number:
Defendant(s): Surname: Forenames:

Application

Name of Applicant:
Name of Applicant's Solicitor:
Address of Solicitor:
Reference:
Date of Application:
Witness's name: Date of videotape:

Result

*Delete inapplicable

Leave to tender the video recording accompanying this application is refused on the following grounds*/granted*/granted subject to the following conditions* (state details of any editing of the recording required or of any additional material disclosed to be added)

Judge: ”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Crown Court Rules 1982 (the principal rules) and come into force on 1st October 1992. They reflect the amendments made to the Criminal Justice Act 1988 (the 1988 Act) by sections 54 and 55 of the Criminal Justice Act 1991

Rule 3 substitutes a new rule for rule 23A of the principal rules which relates to applications under section 32(1)(b) of the 1988 Act (evidence through television links by child witnesses).

Rule 4 adds a new rule 23C to the principal rules which provides for applications under section 32A of the 1988 Act (video recordings of testimony from child witnesses).

Rules 5 and 6 and the Schedules provide for the necessary forms for use in connection with applications. £2.30 net790